

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:

Diane Burton

Debtor.

Case No 15-10445

Judge Thorne (Honorable)

Chapter 13

FILED
UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS

Trustee- Marilyn Marshall

DEC 22 2020

Diane Burton

Plaintiff

JEFFREY P. ALLSTEADT, CLERK
INTAKE 1

Adversary Case No _____

Judge Thorne (Honorable)

v.

Nauient (was Sallie Mae
in 2002 name)

Defendant

COMPLAINT TO DECLARE DEBT DISCHARGEABLE DUE TO UNDUE HARDSHIP

1. This is a complaint to determine that a debt is dischargeable pursuant to 11 U.S.C. section 523(a)(8) because of undue hardship
2. Debtor consents to entry of a final order by the bankruptcy judge
3. Plaintiff is a natural person residing in 3617 175th Place, Country
Club Hills, IL 60818
Illinois.
4. Defendant Nauient (was named Sallie Mae in 2002) is the
servicer of a loan that was owed by plaintiff.
5. Defendant Nauient (originally named Sallie Mae in
2002) is the
creditor to whom the debt is currently owed

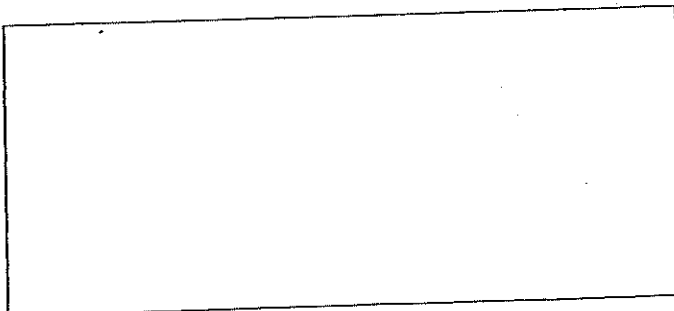
6. Plaintiff filed a petition under the Bankruptcy Code in this court on MARCH 24, 2015 which was assigned case number 15 B 10445
7. Plaintiff received a discharge on JUNE 16, 2020
8. The debt in question is a debt for a student loan that would be nondischargeable under 11 U.S.C. section 523(a)(8) except for the fact that denial of discharge would be an undue hardship to plaintiff.
9. Denial of discharge would be an undue hardship to plaintiff because
- a. Plaintiff is currently unable to maintain a minimal standard of living and also pay this debt due to her income and expenses;
 - b. Plaintiff's inability to pay this debt is likely to persist for a significant portion of the repayment period of this loan;
 - c. Plaintiff has made a good faith effort to repay this loan

WHEREFORE, plaintiff prays that the Court

- A. Enter a Judgment Order declaring that plaintiff's liability on this debt is discharged due to undue hardship
- B. Grant such other, further, or different relief as may be just and equitable.

Deane Burton
Plaintiff

Service list



NAVIENT.

P.O. Box 9640
Wilkes-Barre PA 18773-9640

Fax: (570) - 200 - 6259

DIANE BURTON
JOVAN J TOLBERT
3617 175TH PL
CNTRY CLB HLS IL 60478-4602

9706
HSP 34



DIANE BURTON, your student loan payment is now 40 or more days past due - please make your payment or contact us right away.

As of the date of this letter, we still haven't received the previously due payment for the loan you cosigned referenced above. The Past Due Amount is \$62.11. To avoid any additional Late Fees and collection activity, make this payment soon.

What you need to know

Late payments or missed payments may reflect on your credit report for up to 7 years from when the delinquency began.

Ways you can pay today

Online: Visit Navient.com. This is the fastest way to bring your account up to date. With our mobile site, it's easy to pay on your smartphone, too.

By phone: Call us at 866-334-6290.

By mail: Send payment to Navient, P.O. Box 9988, Wilkes-Barre, PA 18773-9988. Please include your loan number on the check or money order.

Let us know if you can't make a payment

We know financial challenges can come up unexpectedly, and we want to help you stay on track with your repayment schedule. If making a payment isn't an option for you, call us today to talk about your financial situation. We may be able to bring your account current and reduce your Monthly Payments.

Important disclosure(s)

Debt collection attempt

This is an attempt to collect a debt and any information obtained will be used for that purpose.

Credit bureau reporting

We may report information about your account to credit bureaus. Late payments, missed payments, or default on your account may be reflected in your credit report.

Loan number
5029 3504 7813 9707

Date
September 18, 2020

Visit us online
Navient.com

Contact us
866-334-6290

Monday - Friday,
8 a.m. - 9 p.m. Eastern

Keeping our commitment to serve you during this unfolding situation is our focus. If you're experiencing difficulty making payments as a result of COVID-19, we encourage you to visit Navient.com/COVID-19 for updates and more information on available relief options.

Fax:
to Navient
cert. of service
(see attached)

9706DA02
07 200919 PAGE 00001 OF 00001
COLR9045 1009 5006 106

and your student loans.

NAVIENT



JOVAN TOLBERT
Account # *****7691

[Log Out](#)

Loan Details As of 10/15/2020 (ET)

Loan 5029350478139707 Signature Student

Loan Status

Repayment

Repayment Plan

Full Principal and Interest

Repayment Start Date

07/10/2008

Estimated Payoff Date ¹

03/04/2033

Ready to pay off this loan today?

Here are the amounts: ¹

Online

\$4,129.27

By U.S. Mail

\$4,135.38

Unpaid Principal

\$3,081.91

Unpaid Interest

\$1,045.25

Unpaid Late Fee

\$2.11

Current Balance

\$4,129.27

Interest Rate

7.250%

Interest rates on private loans are set by the lender.

Interest Type

Variable

Loan Type ¹

PRIVATE

School

SAINT XAVIER UNIVERSITY

Current Owner

NAVIENT PRIVATE LOAN TRST

Disbursement Date

12/28/2004

Original Principal

\$1,600.00

Cosigner

DIANE BURTON

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B1040 (FORM 1040) (12/15)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)		
PLAINTIFFS Diane Burketon / Jovan Tolbert	DEFENDANTS Navient (was in 2002 Sallie Mae) name			
ATTORNEYS (Firm Name, Address, and Telephone No.) Diane Burketon 3617 175th place, Country Club Hills IL 60478, phone # 312 933-3779	ATTORNEYS (If Known) /			
PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee			
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) not able to work in Pain & Surgeries on Lungs, age 65. Not able to pay due to can't break sometimes, and walking difficulties and coughing all the time due to Lungs. Navient that use to be named Sallie Mae in 2002 request payment of \$4,135.38 and \$12,146.18 totaling \$16,300.29 on SSA in name				
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)				
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; border: none;"> FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny (continued next column) </td> <td style="width: 50%; vertical-align: top; border: none;"> FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input checked="" type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa et seq. <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case) </td> </tr> </table>			FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny (continued next column)	FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input checked="" type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa et seq. <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)
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<input type="checkbox"/> Check if this case involves a substantive issue of state law		<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23		
<input type="checkbox"/> Check if a jury trial is demanded in complaint		Demand \$		
Other Relief Sought				

FILED
UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS

DEC 22 2020

JEFFREY P. ALLSTEADT, CLERK
INTAKE 1

B1040 (FORM 1040) (12/15)

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR <i>Diane Burton</i>	BANKRUPTCY CASE NO. <i>15-10445</i>	
DISTRICT IN WHICH CASE IS PENDING <i>Illinois Eastern Division</i>	DIVISION OFFICE <i>Eastern</i>	NAME OF JUDGE <i>Honorable Thorne</i>
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF <i>Diane Burton</i>	DEFENDANT <i>Navient (was named Sallie Mae in 2002)</i>	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING <i>Illinois Eastern Division</i>	DIVISION OFFICE <i>Eastern</i>	NAME OF JUDGE <i>Honorable Thorne</i>
SIGNATURE OF ATTORNEY (OR PLAINTIFF) <i>Diane Burton</i>		
DATE <i>11/19/2020</i>	PRINT NAME OF ATTORNEY (OR PLAINTIFF) <i>Diane Burton</i>	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.